



August 12, 2009

Indiana Economic Development Corporation

Bryan W. Poynter
Chairman
Indiana Natural Resources Commission

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Dear Mr. Poynter:

Pursuant to IC 4-22-2-28, the Indiana Economic Development Corporation ("IEDC") has reviewed the economic impact analysis for small business associated with rule changes proposed by the Indiana Natural Resources Commission ("NRC") on behalf of the Indiana Department of Natural Resources ("DNR") and contained in LSA Document 09-137. The proposed rule amends 312 IAC 6 concerning the rules governing the placement of structures in navigable waters to provide new standards for the placement of piers. Individual licensure is required for "group piers", and amended individual licensure applies to "marinas". The rule incorporates by reference a nonrule policy document, assisting in the identification of riparian zones, as well as provides standards for lawful nonconforming uses to make technical changes.

According to the economic impact statement provided by the NRC, it is estimated that the proposed rule will affect approximately 22 small businesses during the first 12 months following the implementation. Economic impact to small businesses associated with the proposed rule will include costs involved with providing the documentation to qualify as a lawful or nonconforming use or from cost occurring through demonstrating that a current license would comply with the rule. These costs may not be substantial, however, because it is not required to obtain outside professional assistance to support a new application or document a nonconforming use. Furthermore, the information necessary to document a nonconforming use is readily available and inexpensive. The NRC estimates the cost to establish a lawful nonconforming use for each business to be less than \$100. There may also be cost incurred through preparing a required application and based on additional information that will now be required in conjunction with an application. The NRC estimates that the cost to file the application is will be between \$500 and \$1,000 per business.

This rule is made to simplify and update standards for the use of navigable waterways. The DNR is entrusted with ensuring that navigable waterways in Indiana are open to the public and that riparian land owner's rights are also protected. In recent years the numbers of disputes involving the size and placement of the piers in Indiana's waterways have increased. The lack of standards has lead to the use of the legal system to resolve these disputes, which may lead to inconsistent decisions. By initiating its own rule, the NRC can ensure that rules governing riparian property are consistent and will save small businesses the expense of potential legal actions. The IEDC does not object to the economic impact associated with this proposed rule.

If you have any questions about the comments contained herein please contact me at 232-8962 or rasberry@iedc.in.gov.

Regards,

Ryan Asberry
Assistant Vice President